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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,769	03/16/2004	Darryl L. Schmitz	8929/3049	3138

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OPPENHEIMER WOLFF & DONNELLY LLP  
45 SOUTH SEVENTH STREET, SUITE 3300  
MINNEAPOLIS, MN 55402

EXAMINER

MAYO, TARA L

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/801,769	SCHMITZ ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tara L. Mayo	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20041109</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. New corrected drawings are required in this application because the lines and numbers in all of the figures are not uniformly thick and well defined as required by 37 CFR 1.84(l).

Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Objections***

2. Claim 8 is objected to because of the following informalities: a minor grammatical error. In claim 8 on line 2, delete "attaché" and insert therefore --attached--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 through 3, 8 through 12 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Aldridge (U.S. Patent No. 1,475,771).

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Aldridge '771, as seen in Figure 3, shows a sleep surface for two people comprising:  
with regard to claim 1,

a first bladder (10 having a longitudinal side; and

a second bladder (12) having a longitudinal side attached to the longitudinal side of the first bladder;

each bladder constructed and arranged to maintain an air pressure therein that is independent of an air pressure in the other bladder;

with regard to claim 2,

wherein the longitudinal side of the first bladder comprises a first upper lip, the longitudinal side of the second bladder comprises a second upper lip, and the first upper lip is attached to the second upper lip, thereby attaching the longitudinal sides of the first and second bladders;

with regard to claim 3,

wherein the longitudinal side of the first bladder comprises a first lower lip, the longitudinal side of the second bladder comprises a second lower lip, and the first lower lip is attached to the second lower lip, thereby attaching the longitudinal sides of the first and second bladders;

with regard to claim 8,

wherein the longitudinal side of the second bladder is attached to the longitudinal side of the first bladder such that an overlap (23) is formed between the first bladder and the second bladder;

with regard to claim 9,

further comprising a reinforcing member (24) operably attached to the first and second bladders over the overlap.

Aldridge '771, as seen in Figure 3, shows a sleep surface comprising:

with regard to claim 10,

a first bladder (10);

a second bladder (12); and

means (23) for joining the first bladder to the second bladder;

with regard to claim 11,

wherein the first bladder and the second bladder each comprise a longitudinal lip;

with regard to claim 12,

wherein the means for joining the first bladder to the second bladder comprises a union between the at least one longitudinal lips of the first and second bladders.

With regard to claim 17, the method steps recited therein are inherent to the assembly of the device shown by Aldridge '771.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a

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person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 4 through 7, 13 through 16 and 18 through 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aldridge (U.S. Patent No. 1,475,771).

With regard to claim 14, Aldridge '771 further teaches a reinforcement member (16) operably attached to the at least one longitudinal lips.

Aldridge '771 teaches all of the limitation of the claimed invention with the exception(s) of the longitudinal sides of the first and second bladders being attached by:

with regard to claims 4,13 and 18,

heat welding;

with regard to claims 5, 16 and 20,

hook and loop fasteners;

with regard to claims 6, 15 and 19;

zipper; and

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with regard to claim 7,

snaps.

It would have been obvious to one having ordinary skill in the art of mattresses at the time the invention was made to modify the device shown by Aldridge '771 such that the longitudinal sides of the first and second bladders would be joined by heat-welding, hook and loop fasteners, zipper or snaps. The Examiner takes of Official Notice of the equivalence of these means for fastening sleep surface sections one to another and the selection of any of these known equivalents would have been within the ordinary level of skill.

#### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 703-305-3019. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'JPL' or similar, located above the date.

13 December 2004

A large, stylized handwritten signature in black ink, located above the printed name.

Thomas B. Will  
Supervisory Patent Examiner  
Group 3200